

LAFAYETTE & KUMAGAI LLP
GARY T. LAFAYETTE (SBN 88666)
Email: glafayette@lkclaw.com
BRIAN H. CHUN (SBN 215417)
Email: bchun@lkclaw.com
1300 Clay Street, Suite 810
Oakland, California 94612
Telephone: (415) 357-4600
Facsimile: (415) 357-4605

Attorneys for Defendant
SAFEWAY INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEBRA HORN,
Plaintiff,
vs.
SAFEWAY INC. and Does 1-50,
Defendants.

Case No. 3:19-cv-02488-JCS

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANT SAFEWAY
INC.'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Date: April 30, 2021
Time: 9:00 a.m.
Courtroom: Courtroom F, 15th Floor
Judge: Hon. Joseph C. Spero

Action Filed: March 11, 2019
Notice of Removal Filed: May 8, 2019
Trial Date: September 27, 2021

LAFAYETTE & KUMAGAI LLP
ATTORNEYS AT LAW
1300 CLAY STREET, SUITE 810
OAKLAND, CALIFORNIA 94612
(415) 357-4600
FAX (415) 357-4605

1 Pursuant to Rule 201 of the Federal Rules of Evidence and applicable case law,
2 Defendant Safeway Inc. hereby requests that the Court take judicial notice of the attached
3 document in support of its Motion for Partial Summary Judgment.

4 1. Attached hereto as **Exhibit A** is a true and correct copy of the Charge of
5 Discrimination filed by Plaintiff Debra Horn with the Equal Employment Opportunity
6 Commission on May 9, 2017.

7
8 DATED: February 26, 2021


LAFAYETTE & KUMAGAI LLP

9
10 /s/ Brian H. Chun
11 BRIAN H. CHUN
12 Attorneys for Defendant
13 SAFEWAY INC.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LAFAYETTE & KUMAGAI LLP
ATTORNEYS AT LAW
1300 CLAY STREET, SUITE 810
OAKLAND, CALIFORNIA 94612
(415) 357-4600
FAX (415) 357-4605

EXHIBIT A

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div>555-2017-00734</div> </div>	
California Department Of Fair Employment & Housing and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) Mrs. Debra A. Horn		Home Phone (Incl. Area Code) Date of Birth 	
Street Address 7434 Larkdale Avenue, Dublin, CA 94568		City, State and ZIP Code 	
RECEIVED MAY 09 2017			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name SAFeway GROCERY STORE		No. Employees, Members Phone No. (Include Area Code) 500 or More (925) 556-4034	
Street Address 7499 Dublin Blvd, Dublin, CA 94568		City, State and ZIP Code 	
Name 		No. Employees, Members Phone No. (Include Area Code) 	
Street Address 		City, State and ZIP Code 	
RECEIVED MAY 09 2017 EEOC - OLO			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"><input type="checkbox"/> RACE</div> <div style="width: 50%;"><input type="checkbox"/> COLOR</div> <div style="width: 50%;"><input type="checkbox"/> SEX</div> <div style="width: 50%;"><input type="checkbox"/> RELIGION</div> <div style="width: 50%;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="width: 50%;"><input checked="" type="checkbox"/> RETALIATION</div> <div style="width: 50%;"><input type="checkbox"/> AGE</div> <div style="width: 50%;"><input checked="" type="checkbox"/> DISABILITY</div> <div style="width: 50%;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="width: 50%;"><input type="checkbox"/> OTHER (Specify)</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 12-01-2012 05-09-2017 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I was hired on or around January 10, 2002 in the position of Journeyman Clerk. I am currently assigned to the position of self-checkout clerk. I perform my job duties satisfactorily and currently report to Michael Vasquez, Manager.</p> <p>I am disabled. I notified Respondent of my disability on numerous occasions and as early as 2008. In addition, I routinely and frequently have informed Respondent of my accommodation needs and provided Respondent with medical documentation substantiating my medical needs. Specifically and most recently on November 29, 2016, I faxed a Doctor's note to Dina Woods informing her that no more than two hours of checking for the first four hours off shift and no more than two hours of checking for the second half of the shift, ensuring work in checking more than a total of four hours a shift provided that it is broken into separate segment. I also require a fifteen minute break every two hours. In addition, I verbally informed Michael Vasquez, as well as Jerry Hunt and Jessica LNU – Assistant Managers – of my accommodation needs. However, I am routinely, often three times a</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements 	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT 	
<div style="display: flex; justify-content: space-between;"> <div>5/9/17 Date</div> <div> Charging Party Signature</div> </div>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**555-2017-00734****California Department Of Fair Employment & Housing**

and EEOC

State or local Agency, if any

week, instructed to work hours at check stand that violate my accommodation needs. In addition, I have been subjected to retaliation for requesting an accommodation. Respondent issued me a written warning on November 16, 2016 and then a suspension on November 23, 2016 for allegations that I failed to provide satisfactory customer service. I dispute these allegations and am further aware of other employees who receive customer complaints and are not similarly disciplined. In addition, I was placed on suspension on April 27, 2017 for an incident in which I did not engage in any wrong doing. Rather, I followed the policy that Respondent managers ask of employees in the situation at hand.

I believe that I have been subjected to discrimination and retaliation due to my disability and request for accommodation, in violation of the Americans with Disabilities Act, as amended.

RECEIVED

MAY 09 2017

EEOC - OLO

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

Date

Charging Party Signature